



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2007 APR 16 PM 2:32

MOUNTRAIL COUNTY

P. O. Box 69

Stanley, ND 58784

FINAL ORDER

Van Hook Park Facility

Respondent

DOCKET NO.: RCRA-08-2006-0005

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 16<sup>th</sup> day of April, 2007.

Elyana R. Sutin  
Regional Judicial Officer

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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OFFICE OF EPC

**IN THE MATTER OF:**

Mountrail County  
P.O. Box 69  
Stanley, ND 58784

Van Hook Park Facility

**Respondent.**

**Docket No. RCRA-08-2006-0005**

**Consent Agreement**

**Proceeding under Section 9006 of the  
Resource Conservation and Recovery Act**

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Mountrail County, by their undersigned representatives, hereby consent and agree as follows:

1. On September 26, 2006, Complainant issued a Complaint and Compliance Order to Respondent alleging certain violations of section 9003(c) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6991b(c) (the "Complaint"). The Complaint proposed a civil penalty for the violations alleged therein and the Compliance Order directed Respondent to take certain actions to comply with EPA's regulations promulgated pursuant to RCRA.

2. Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations of the Complaint.

3. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint or this Consent Agreement ("Agreement").

4. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

5. Respondent consents and agrees to pay a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000), in the manner described below in this paragraph:

- a. Payment is due within 30 calendar days from the date written on the Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, in the amount of the civil penalty, payable to "Treasurer, United States of America," and sent to:

If by Regular Mail:

Mellon Bank  
Lockbox 360859  
Pittsburgh, PA 15251-6859

If by Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859  
Mellon Client Service Center Rm 154-0670  
500 Ross Street  
Pittsburgh, PA 15251-6859

If by Wire Transfer:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

A copy of the check shall be sent simultaneously to:

Francisca Chambus, Environmental Engineer  
Groundwater Unit (8P-W-GW)  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

and

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

- c. In the event payment is not received by the specified due date, interest accrues from the date of the Final Consent Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1<sup>st</sup> late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31<sup>st</sup> day from the date of the Final Consent Order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121<sup>st</sup> day from the date the Final Consent Order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

6. Respondent has complied with the requirements of the Compliance Order and EPA sent Respondent a letter dated March 21, 2007 noting that those requirements were performed to EPA's satisfaction.

7. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with RCRA and its implementing regulations.

8. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the Department of Justice for specific enforcement of this Agreement and for such other relief as may be appropriate.

9. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

10. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind the party he represents to the terms and conditions of this Consent Agreement.

11. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Consent Order.

12. Each party shall bear its own costs and attorney fees in connection with this matter.

13. This Consent Agreement, upon incorporation into a Final Consent Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Mountrail County,  
Docket No. RCRA-08-2006-0005

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,  
Complainant.

Date: April 12, 2007

12 April 2007

By: Sharon L. Kercher  
Sharon L. Kercher, Director  
Technical Enforcement Program

David J. Janke  
DAVID J. JANKE; LEP SUPERVISOR

Date: April 11, 2007

By: Richard H. Baird

Richard H. Baird  
Senior Enforcement Attorney  
Legal Enforcement Program

MOUNTRAIL COUNTY  
Respondent.

Date: 4-3-07

By: Greg Bosche  
Greg Bosche, Chairman  
Mountrail County Board of Commissioners

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **MOUNTRAIL COUNTY, DOCKET NO.: RCRA-08-2006-0005**. The **CONSENT AGREEMENT** was filed with the Regional Hearing Clerk on April 12, 2007. The **FINAL ORDER** was filed with the Regional Hearing Clerk on April 16, 2007.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Richard H. Baird, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on April 16, 2007, to:

Wade G. Enget  
Mountrail County State's Attorney  
Mountrail County  
P. O. Box 369  
Stanley, ND 58784


Pouch Mail to:

Honorable Barbara A. Gunning  
Administrative Law Judge  
Office of Administrative Law Judges (1900L)  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460-2001

E-Mailed to:

Michelle Angel  
U. S. Environmental Protection Agency  
Cincinnati Finance Center Accounting

April 16, 2007

  
Tina Artemis  
Paralegal Regional Hearing Clerk